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Chris Daniel - District Clerk Harris County
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2015-28043 / Court: 080

CAUSE NO.: _____

RAY GORE

VS.

QUALITY CARRIERS, INC. and
BENNIE ORCUTT

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§

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff, RAY GORE, and files this Original Petition complaining of QUALITY CARRIERS, INC., and BENNIE ORCUTT, ("ORCUTT") (collectively Defendants) and in support thereof would show the court as follows:

I.
DISCOVERY LEVEL

1. Discovery should be conducted under Discovery Level 2 as set forth by the Texas Rules of Civil Procedure.

II.
PARTIES AND SERVICE

2.1 Plaintiff, RAY GORE, is an individual who resides in Liberty County, Texas.

2.2 Defendant, QUALITY CARRIERS, INC., (hereinafter "QUALITY CARRIERS") is a Florida corporation and may be served with Plaintiff's Original Petition and Request for Disclosure and with citation by serving its registered agent CORPORATION SERVICE COMPANY, 1201 Hays Street, Tallahassee, FL 32301-2525.

2.3 Defendant, BENNIE ORCUTT, (hereinafter "ORCUTT") is an individual and resident of the state of Florida may be served with Plaintiff's Original Petition and Request for

EXHIBIT

A

Disclosure and with citation at 2375 Caddy Shack Lane, Pensacola, Florida 32526 or wherever he may be found.

III. **JURISDICTION**

A. Personal Jurisdiction

3.1 Defendant, QUALITY CARRIERS, caused an accident on March 20, 2015 in Harris County, Texas, which resulted in personal injuries to Plaintiff. Defendant, QUALITY CARRIERS, INC., conducts business in Texas.

3.2 Defendant, BENNIE ORCUTT caused an accident on March 20, 2015 in Harris County, Texas, which resulted in personal injuries to Plaintiff. Defendant, BENNIE ORCUTT, conducts business in Texas.

B. Subject Matter Jurisdiction

3.3 This Court has subject matter jurisdiction over the Plaintiff' claims. Plaintiff seeks damages under the common and statutory laws of the State of Texas. The amount in controversy for each claim exceeds this Court's jurisdictional minimum.

IV. **VENUE**

4.1 Venue is proper in Harris County, Texas as all or a substantial part of the events made the basis of this lawsuit occurred in Harris County. TEX. CIV. PRAC. & REM CODE §15.002(a)(1).

V. **TEXAS RULES OF CIVIL PROCEDURE 47**

Plaintiff, RAY GORE seeks monetary relief over \$200,000 but not more than \$1,000,000.00.

VI.
INFORMATION REGARDING THE PLAINTIFF

5.1 The information required for each party by § 30.014 of the Tex. Civ. Prac. & Rem. Code is as follows:

Name: RAY GORE

Social security number: xxx-xx-x339

Driver's license number: xxxxxx727

VII.
FACTUAL BACKGROUND

6.1 On or about March 20, 2015, RAY GORE was severely injured as a result of the negligence of the QUALITY CARRIERS, and BENNIE ORCUTT.

6.2 Defendants' vehicle was parked underneath a loading rack at the Rohm Haas Dow plant in Deer Park, Texas. As part of the normal operating procedure while the Defendants' tanker trailer was being filled with chemicals, wheel chocks were in place and the vehicle was secure. RAY GORE was performing his duties on top of the loading rack which was positioned on top of the Defendants' tanker trailer. While GORE was still on top of the tanker trailer, Defendant, BENNIE ORCUTT, started the truck and pulled forward. RAY GORE became trapped between the loading rack and the tanker trailer causing severe injuries to his right ankle. It took first responders over thirty minutes to release GORE from the top of the tanker trailer. He was taken by ambulance to Memorial Hermann hospital for treatment. As a result, RAY GORE has suffered bodily injury including a severely broken ankle. RAY GORE has missed a substantial amount of work, has undergone surgery on his ankle and it remains uncertain as to when and to what degree he will be able to return to work. GORE will require additional care and physical therapy in the future.

VIII.
CAUSES OF ACTION

A. Negligence of QUALITY CARRIERS, INC., AND BENNIE ORCUTT

7.1 Plaintiff RAY GORE hereby incorporates paragraphs 1.0 through 6.2 as if fully set forth herein.

7.2 At all times relevant Defendant ORCUTT was acting in the course and scope of his employment with QUALITY CARRIERS. As such QUALITY CARRIERS is responsible for the actions of ORCUTT. The negligence, carelessness, and wrongful acts of ORCUTT are imputed to QUALITY CARRIERS under the doctrines of vicarious liability, respondeat superior and joint enterprise. Defendants had a duty to GORE to operate the truck in a safe and reasonable manner and in compliance with applicable laws, rules, regulations and standards of care for commercial truck driver.

7.3 Defendants' breached their collective duties by:

- a. failing to keep a proper lookout;
- b. driver inattention; and
- c. generally failing to adhere to safe driving practices.

7.4 The Defendants negligence proximately caused personal injuries to RAY GORE and damages within the minimum jurisdictional limits of this Court.

IX.
DAMAGES

8.1 Plaintiff, RAY GORE seeks damages within the minimum jurisdictional limits of this Court.

8.2 Plaintiff, RAY GORE reserves the right to amend this petition, and respectfully request that the Court and jury determine the amount of loss that he has incurred in the past and

1. Judgment against Defendants in an amount within the jurisdictional limits of the Court;
2. Prejudgment and post judgment interest as provided by law;
3. Costs of suit; and
4. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

GRIMES & FERTITTA, P.C.



Julian J. Fertitta, III; SBN: 00796542

jfertitta@grimesfertitta.com

Chase Chapman; SBN: 24092245

[ccchapman@grimesfertitta.com](mailto:cchapman@grimesfertitta.com)

440 Louisiana, Ste. 1818

Houston, Texas 77002

(713) 224-7644 Telephone

(713) 224-0733 Facsimile

ATTORNEYS FOR PLAINTIFF,
RAY GORE